

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**Clerk's Minutes
Before the Honorable Kenneth J. Gonzales**

Case No. Civ. 88-0385 KG/CG

Date: 6/29/2017

Title: Hatten-Gonzales v. Earnest

Courtroom Clerk: Theresa A. Hall

Court Reporter: Vanessa Alyce

Court Interpreter: None

Court in Session: 1:30 p.m.; Court in Recess: 4:25 p.m.; Total Court Time: 2 hrs. 40 mins.

Type of Proceeding: Status Conference

Court's Rulings/Disposition: See below

Order consistent with court's ruling to be prepared by: N/A

ATTORNEY PRESENT FOR PLAINTIFF(S):

Sovereign Hager, Maria Griego

ATTORNEY PRESENT FOR DEFENDANT(S):

Paul Kennedy, Natalie Campbell, Christopher Collins, Brent Earnest, Sean Pearson

OTHERS:

Lawrence Parker, Special Master

Ramona McKissic, Compliance Officer

PROCEEDINGS:

1:30 PM COURT IN SESSION

Judge & counsel introduce themselves.

Judge: Indicates this case has been ongoing for about 6 mths. with a 12 mth. compliance goal in mind. Please let me know the state of affairs.

Mr. Kennedy: Introduces Secretary Earnest and passes out hand-outs to counsel, Special Master and the Court.

Secretary Earnest: Presentation regarding application compliance. Application, notices, policies and targeting issues. 1 million individuals come through HDS's

door/use website. Reviews hand-outs.

Corrective action plan effects:

- 1. Application processing timeliness: tracking of overdue cases and processing timeliness. Medicaid applications, as well as SNAP renewals have been dealt with. Eliminated overdue SNAP applications from late last year. Reviews charts in hand-outs. Not a function of staffing. Current processing of applications for Medicaid and SNAP calculating numbers. Charts indicate improval across the board. Chart Nos. 5-8 reviewed. Medicaid applications reviewed. Chart Nos. 9-10. SNAP reviewed. Chart No. 11. Both. Chart No. 12.*
- 2. Notices: Deadlines. 6th grade readability USDA contractor case action, insight complete review.*
- 3. Policy & Rules: Discussed. February release includes immigration changes, use of available databases, interviews. Proposed 10 changes to July 2014 recertification, continue to comply with decree.*
- 4. Training: Worked with CMS in federal and ethical training to make sure it is doing it properly. Goal is to retain employees due to difficult programs. Immigrant eligibility training.*
- 5. Several actions to bring additional staffing, call centers, etc. Chart No. 13.*

Vacancy rate is currently approximately 10%. Staffing changes discussed. Improve management positions. State funding. Concerns that state employees are answering questions at the call center. 35 field offices.

Changes in eligibility systems include checklists, realtime eligibility, renewal system. Assessments and improval to policies important.

Judge: Discuss short term goals Ms. Brogdon may have discussed with you. Ensure Ms. Brogdon schedules a meeting with the Special Master. Reallocate SNAP resources to Medicaid applications; how will that affect SNAP applications? Are there deadlines to implement additional changes? Request for information being unnecessarily delayed or denied. Have you considered restructuring? What do you want to leave your predecessor when you leave office?

Secretary Earnest: Ms. Brogdon was unable to be here due to her being in the hospital as of last night about 10:00. Believes scheduled she has a meeting with the Special Master on 7/6/17. Would like to leave more consistent processes.

2:40 PM Ms. Hager: Passes out one-page hand-out and reviews same. Many new born children are not being added to Medicaid renewals timely. Reviews delayed due to staff

difficulties in entering data into system on a timely basis. Eligibility notice has been unchanged since we first came before the Court in 2014. Notices of denial & reasons why have only been reviewed in the last month or so, but no deadline as of yet. Plaintiffs' counsel have not been included with whether changes are being made to the notices of eligibility. Immigrant eligibility process was worked out with the Dept., but then deleted the verification process and have not replaced it. Upward of 70% of calls at the call center are not answered. Non-English speaking callers are even less likely to get their calls/questions answered. Worried about accurate information being given by employees. Plaintiffs feel the problems fall at the leadership of the agency and they do not do their due diligence in fixing the problems. Dept. should be held to a deadline to post position vacancies and eligibility notice corrections. Def. has really slowed down since special master has been appointed which is delaying progress of the Court's orders.

Judge: Hard to know the true state of affairs; how can the Court depend on the data that both sides are offering?

Mr. Earnest: Dept. gives direct access to its data and provides same information to Plaintiffs every month.

3:10 PM COURT IN RECESS

3:23 PM COURT IN SESSION

Judge introduces Mr. Parker as special master and Ms. McKissic as compliance officer.

Mr. Parker: NMHSD has made progress, greatly decreased SNAP backlogged applications. However, need much more progress. Data being reviewed by him and Ms. McKissic are not matching; flow of communication is lacking; need to improve efforts to eliminate backlog; Medicaid program suffered due to bringing SNAP program into compliance and vice versa. Hiring of the new director will be very helpful, but still have concerns with some of the management staff. Employees believe they are being given verbal instruction rather than written policy direction. Need to look at auto-denial. Both sides need to come together to get the system working. Individual review process needs to be improved. Consent Decree information issues need to be addressed. The parties need a plan and need to move forward with it. New programs need some tweaking, but Plaintiffs need to be able to sit in with Defendants with their issues. Need employee "report cards", specifically the FAAs. Cabinet secretary needs to look at his management team.

Timelines have been discussed in general. Correction plans need a time frame to achieving those goals. Have relayed some information to Secretary, Pearson & Collins regarding site visits. Lobby management has been improved to get people through quicker. Management needs to be addressed to improve programs. Communication is a problem. New organization structure and new employees are not made aware of throughout the offices. Generation of information in the Aspen program. Inability to validate data is a concern. Numbers become significant due to funding abilities. Solution: Plaintiffs need to see that Defendant has made

progress; Defendant needs to admit full that compliance with the Court Consent Decree has not been met.

4:01 PM *Mr. Earnest: closing remarks.*

4:04 PM *Ms. Hager: closing remarks.*

4:11 PM *Mr. Earnest: future of copay policies; Oct. being goal for copay restructure. Can see the Dept coming into compliance by January 2018.*

4:17 PM *Judge: Establish more productive lines of communication between the parties. Continue to work together and step up cooperation and communication. Judge will visit one or two field office for himself. Mr. Parker & Ms. McKissic will make the visits with him; one representative from each side invited to go along; will let you know when this will happen.*

4:23 PM COURT IN RECESS